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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,884	11/18/2003	Christopher M. Carpenter	51291.00090	2819

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ESCO CORPORATION
2141 NW 25TH AVENUE
P.O. BOX 10123
PORTLAND, OR 97210

EXAMINER

TORRES, ALICIA M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,884

Applicant(s)

CARPENTER ET AL.

Examiner

Alicia M. Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 129-167 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 129-131, 141, 142, 144, 148-150, 157, 160 and 163-165 is/are rejected.
- 7) ☒ Claim(s) 132-140, 143, 145-147, 151-156, 158, 159, 161, 162, 166 and 167 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119 .

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the diverging sidewalls of claims 138, 139 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 156 is objected to because of the following informalities: there is lack of antecedent basis for "the lateral surfaces". Appropriate correction is required.

DETAILED ACTION

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 129-131, 141, 142, 144, 148, 149, 150, 157, 160, 163 are rejected under 35

U.S.C. 102(b) as being anticipated by Cupples 805,004.

Regarding claims 129-131, 141, 142, 144, 148, Cupples discloses a wear assembly for an excavator having:

- a digging edge (b) comprising an adapter with a nose fixed to the excavator
- a wear member having a socket and a point as a front digging edge
- a lock to secure the wear member to the adapter
- the nose having converging walls and side walls
- the nose having linear rails oriented at the same inclination as the converging walls on each sidewall and having a channel for receiving the lock
- the socket having linear grooves with constant width and depth for receiving the rails
- one rail being inclined the same as one converging wall the other rail inclined at the same inclination as the converging wall.

5. Regarding claims 149, 150, 157, 160, 163, Cupples discloses a wear member with a point for a digging edge for

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an excavator having a lip with a digging edge comprising:

- converging walls forming a socket with a narrow end
- sidewalls
- linear grooves for receiving a rail formed on side surfaces of the nose and oriented in the same inclination as the converging surfaces
- one rail being inclined the same as one converging wall the other rail inclined at the same inclination as the converging wall
- the converging surfaces form first and second grooves.

6. Regarding claims 164, Cupples discloses a wear member wherein the following method for

attaching a wear member to an excavator is inherent, the method comprises:

- Providing a nose projecting forward from the digging edge to a front end
- The nose comprising first and second walls converging toward the front end
- The nose comprising opposite sides connecting the first and second walls
- The sides including rails oriented in the same inclination as the walls
- Providing a wear member with a socket having opposite converging surfaces and opposite side surfaces
- Placing the wear member over the nose so that
 - The converging surfaces each engage the walls of the nose
 - The side surfaces each engage the outer side faces of the rails
 - The nose and wear member collectively define an opening

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- Inserting a lock into the opening
- Wherein transverse faces of the rails engage transverse faces of the nose.

Allowable Subject Matter

7. Claims 132-140, 143-147, 151-156, 158, 159, 161, 162, 166, 167 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

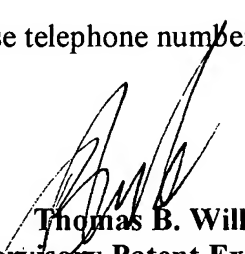
Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thomas, Sherrerd and Pemberton have been cited as of interest.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
October 3, 2005